

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
SPARTANBURG DIVISION**

Torriano D. Williams,)	
)	
Petitioner,)	
)	C.A. No. 8:11-cv-00645-JMC
v.)	
)	ORDER
Warden Dunlap,)	
)	
Respondent.)	
_____)	

This matter is now before the court upon the Report and Recommendation [Doc. 14] filed by United States Magistrate Judge Jacquelyn D. Austin on April 21, 2011, recommending that the court dismiss Petitioner Torriano D. Williams's petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 without prejudice and without issuance and service of process. Petitioner filed objections to the Report. [Doc. 17]. The Report and Recommendation sets forth in detail the relevant facts and legal standards on this matter, and the court incorporates the Magistrate Judge's recommendation without a recitation.

The Magistrate Judge's Report and Recommendation is made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District of South Carolina. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objections are made, and the court may accept, reject, or modify, in whole or in part, the

Magistrate Judge's recommendation or recommit the matter with instructions. *See* 28 U.S.C. § 636(b)(1).

In light of the standard above, the Court has reviewed the Report and the objections *de novo*. After careful assessment, the Court **ACCEPTS** the Report. [Doc. 14]. Therefore, for the reasons articulated by the Magistrate Judge, it is **ORDERED** that this petition for a writ of habeas corpus is **DISMISSED** without prejudice and without issuance and service of process.

The court has reviewed the petition in accordance with Rule 11 of the Rules Governing Section 2254 Proceedings. The Court concludes that it is not appropriate to issue a certificate of appealability as to the issues raised herein. The petitioner is advised that he may seek a certificate from the United States Court of Appeals for the Fourth Circuit under Rule 22 of the Federal Rules of Appellate Procedure.

IT IS SO ORDERED.

s/J. Michelle Childs
United States District Judge

July 1, 2011
Greenville, South Carolina